

APPEAL NO. 020479  
FILED APRIL 1, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 25, 2002. The hearing officer resolved the disputed issue by concluding that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the fourth quarter. The appellant (carrier) appeals, contending that the determinations of the hearing officer are not supported by the evidence. In his response, the claimant argues that there was sufficient evidence to support the hearing officer's determinations.

DECISION

Affirmed.

The only issue reported out of the benefit review conference was the claimant's entitlement to SIBs for the fourth quarter. The evidence established that the claimant obtained part-time employment working as a sound man for a band. The claimant's treating doctor opined that the claimant's part-time job is consistent with his restrictions stating that "[he] would not recommend that [the claimant] do any other job that requires more time or physical demand."

The hearing officer determined that the claimant had satisfied the good faith requirement under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)) by returning to work in the relevant qualifying period in a job relatively equal to his ability to work. The question of whether a job is relatively equal is a question of fact for the hearing officer and the focus of the inquiry is on the hours worked and the ability to work. Texas Workers' Compensation Commission Appeal No. 000616, decided April 26, 2000; Texas Workers' Compensation Commission Appeal No. 000608, decided May 10, 2000.

Given the ambiguity of the evidence and the treating doctor's report, we hold that the hearing officer's determination that the claimant satisfied the good faith requirement under Rule 130.102(d)(1) is supported by sufficient evidence and is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**C. T. CORPORATION SYSTEM  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge